

1 **BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS**

2 **IN MEDICINE AND SURGERY**

3 In the Matter of:

No. 07A-3888-OST

4 **S. FOSTER EASLEY, III, D.O.**

5 Holder of License No. 3212

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER FOR SUSPENSION OF
LICENSE & PROBATION**

6
7 For the Practice of Osteopathic Medicine
8 In the State of Arizona

9 On November 10, 2007 this matter came before the Arizona Board of Osteopathic
10 Examiners in Medicine & Surgery ("Board") for oral argument and consideration of the
11 Administrative Law Judge ("ALJ") Diane Mihalsky's proposed Findings of Fact and
12 Conclusions of Law and Recommended Order involving S. Foster Easley, III, D.O.
13 ("Respondent"). Respondent was notified of the Board's intent to consider this matter at the
14 Board's public meeting. Respondent appeared and was represented Charles E. Buri, Esq. of
15 Friedl, Richter & Buri, P.A.

16
17 The State was represented by Assistant Attorney General Blair Driggs. Christine
18 Cassetta, Assistant Attorney General with the Solicitor General's Section of the Attorney
19 General's Office, provided legal advice to the Board.

20
21 The Board having considered the ALJ's recommended decision and the entire record
22 in this matter hereby issues the following Findings of Fact, Conclusion of Law and Order.

23 **FINDINGS OF FACT**

24 **BACKGROUND**

- 25
26 1. Dr. Easley testified that he was first licensed by the Board in 1997.

27 **The 1999 Probation**

- 28 2. On the Biennial Renewal Application form that Dr. Easley submitted to the
29 Board for 1999, he disclosed that he had entered a drug diversion program as a result
30 of having been arrested for possession of marijuana.

1 3. In fact, Dr. Easley had been arrested for possession of narcotics in
2 September 1997 and had been charged in April 1998 with knowingly possessing or
3 using cocaine, a narcotic drug, and knowingly possessing or using marijuana having a
4 weight of less than two pounds. In September 1998, he had been ordered to enter a
5 drug diversion program and had his two-year sentence suspended, pending the
6 outcome of the diversion program.

7 4. As a result of Dr. Easley's disclosure, the Board opened an investigation,
8 which was designated Case No. 2656. On August 7, 1999, the Board voted to place
9 Dr. Easley's license on probation for monitoring and restriction and authorized its
10 executive director to issue and to sign a Stipulated Consent Order.

11 5. On October 18, 1999, the Board issued Findings of Fact, Conclusions of Law
12 and Board Order for Probation, which concluded that Dr. Easley's arrest for possession
13 of cocaine and marijuana constituted unprofessional conduct as defined in A.R.S. § 32-
14 1854(19), (22), and (41). Dr. Easley was placed on probation for a term of five years
15 and ordered to comply with the standard terms of disciplinary probation for substance
16 abuse, in relevant part as follows:

17 5.1 To undergo treatment by a Board-approved psychologist or psychiatrist, the
18 frequency of treatment sessions to be determined by the practitioner, at Dr. Easley's
19 expense.

20 5.2 To provide a copy of the order of probation to any facility that employed
21 him.

22 5.3 To abstain completely from the consumption of alcohol or illicit drugs and to
23 not take any prescription medication except as prescribed by his treating physician. Dr.
24 Easley was required to maintain a log containing the name of each prescribed
25 medication, the prescribing physician, and the reason for the medication.

26 5.4 To submit to random biological fluid testing and to promptly provide, within
27 60 minutes of notification, required biological fluids for testing, at his expense.

28 5.5 To undergo a psychological evaluation, at the Board's request, by a Board-
29 approved psychologist or psychiatrist, at his own expense.

30 5.6 To participate at a minimum in two self-help meetings per week.

1 5.7 To reimburse the Board for all expenses associated with its investigation
2 and continued monitoring of the matter.¹

3 6. Dr. Easley acknowledged that, if he failed to comply with any of the terms of
4 probation, his failure would constitute unprofessional conduct under A.R.S. § 32-
5 1854(26) and could be considered as grounds for further disciplinary action against his
6 license, including suspension or revocation.

7 **The 2001 Probation**

8 7. On or about July 1, 2000, Dr. Easley tested positive for alcohol on his urine
9 drug screen. He had provided the sample five hours after the required time.

10 8. The Board opened a new investigation, which was designated Case No.
11 2656.

12 9. On July 10, 2000 the Board determined that Dr. Easley was medically and/or
13 psychologically unable to engage in the practice of medicine and was an immediate
14 threat to the health and welfare of the public and suspended his license summarily.

15 10. Dr. Easley requested that he be allowed to enter into a Stipulated Consent
16 Order for assessment and inpatient treatment and that, upon completion of such
17 treatment, he be placed on probation for another five-year period.

18 11. On August 19, 2000, the Board authorized its executive director to issue
19 and to sign a Stipulated Consent Order regarding Dr. Easley's suspended license while
20 he completed treatment.

21 12. On December 13, 2000, Dr. Easley successfully completed a three-month
22 inpatient treatment program at Springbrook Northwest, which is located in Oregon. He
23 subsequently requested that his license be reactivated under a probationary consent
24 order.

25 13. On March 31, 2001, Dr. Easley and the Board's executive director executed
26 Findings of Facts, Conclusions of Law, and Consent Order for Terms and Conditions of
27 Probation of License. Dr. Easley admitted that his positive test result constituted a
28 violation of A.R.S. § 32-1854(26), (40), and (41). The Board ordered that Dr. Easley be
29 placed on probation for another five-year period and to observe the same terms and
30

¹ See the Board's Ex. 1.

1 conditions set forth at Finding of Fact No. 5, *supra*, except that he was required to
2 attend a minimum of three self-help meetings per week and to “abstain completely from
3 the consumption of alcoholic beverages or any substance with alcohol (i.e., cough
4 syrups).”²

5 The January 26, 2006 Probation

6 14. On October 19, 2005 as part of random testing, Dr. Easley tested positive
7 for alcohol. A subsequent ETC test confirmed the presence of alcohol in the random
8 sample.

9 15. A second test performed of a biological fluid that Dr. Easley provided on
10 October 20, 2005 was negative for alcohol.

11 16. The Board opened an investigation, which was designated Case No. 3624.

12 17. On November 9, 2005, the Board’s executive director ordered Dr. Easley to
13 obtain an assessment and evaluation for possible alcohol dependency from Michael A.
14 Sucher, MD, an allopathic physician who specialized in addiction medicine.

15 18. On November 15, 2005, Dr. Sucher evaluated Dr. Easley for a possible
16 chemical dependency relapse. Dr. Sucher’s diagnostic impression and
17 recommendations were made available to the Board.

18 19. On November 22, 2005, the Board voted to seek an inpatient evaluation of
19 Dr. Easley at the Betty Ford Center Professional Evaluation Program (“the Betty Ford
20 Center”) to determine Dr. Easley’s current status. In addition, the Board requested and
21 Dr. Easley agreed to discontinue his practice until the matter was resolved.

22 20. On December 10, 2005, the Board reviewed the Preliminary Clinical
23 Diagnostic Evaluation Discharge Summary for Dr. Easley from the Betty Ford Center.
24 In the course of reviewing the matter, the Board determined that Dr. Easley had violated
25 the provisions of his probation by consuming alcohol. The Board voted to offer Dr.
26 Easley a consent agreement.

27 21. On January 26, 2006, Dr. Easley and the Board’s executive director
28 executed a Consent Agreement to Findings of Facts, Conclusions of Law, and
29 Probationary Order. Dr. Easley admitted that his second positive test result constituted
30

² See the Board’s Ex. 2.

1 a violation of A.R.S. § 32-1854(25). The Board ordered that Dr. Easley be placed on
2 probation for another five-year period (in addition to the probationary period already in
3 effect in Case No. 2812) and required to observe the same terms set forth at Findings
4 of Fact No. 5 and 12, *supra*, except that he was required to enter and to successfully
5 complete an intensive-outpatient psychiatric rehabilitation program for alcohol
6 dependency for a minimum of six months and to develop a plan for aftercare treatment
7 and monitoring, including but not limited to individual and/or group counseling sessions,
8 random bodily fluid testing.³

9 **The Statutory Violation at Issue**

10 22. On February 3, 2007 and February 20, 2007, Dr. Easley's random bodily
11 fluid samples tested positive for the controlled substance Modafinil.

12 23. The Board opened a new investigation, which was designated Case No.
13 3667.

14 24. At the Board's April 28, 2007 meeting, Dr. Easley admitted that he had
15 violated the Board's January 26, 2006 order by self-prescribing the medication Provigil,
16 which contains Modafinil. He admitted that he used samples of the medication for "the
17 last several months."

18 25. After Dr. Easley's admission, the Board voted to forward the matter for
19 administrative hearing.⁴

20 26. The matter was referred to the Office of Administrative Hearings and, on
21 May 23, 2007, the Board issued a Complaint and Notice of Hearing, which charged Dr.
22 Easley with commission of acts of unprofessional conduct as defined in A.R.S. § 32-
23 1854(25), (22), and (45) and informed Dr. Easley that, in light of his disciplinary history,
24 it would be seeking suspension for more than twelve months or revocation of his license
25 under A.R.S. § 32-1855(F).

26 27. After one continuance, a hearing was held on August 22, 2007 and
27 September 6, 2007.

28 28. The Board had admitted into evidence four exhibits establishing the
29 disciplinary history set forth above.

30 ³ See the Board's Ex. 3.

⁴ See the Board's Ex. 4.

1 29. Dr. Easley admitted that cause existed to penalize his medical license
2 under A.R.S. § 32-1854(22) and (25),⁵ but denied that the evidence showed that he
3 was morally unfit to practice medicine to establish cause to penalize his license under
4 A.R.S. § 32-1854(45).⁶ Dr. Easley also offered evidence in mitigation of any penalty to
5 be imposed as a result of his admitted statutory violations.

6 30. Dr. Easley testified on his own behalf and presented the testimony of Dr.
7 Sucher, psychologist Phillip Lett, Ph.D., chemical dependency counselor Melanie Wall,
8 his treating physician Lauro Amezcua-Patino, MD, and character witnesses Louie Tapia
9 and Arnaldo Maldonado, and had admitted into evidence seven exhibits, which are
10 described below.

11 HEARING EVIDENCE

12 Dr. Easley

13 31. Dr. Easley grew up in California. In 1984, he graduated from the University
14 of California at Irvine with a Bachelor of Science degree in Biology (Pre-Med) and a
15 Bachelor of Arts Degree in Psychology. He also had a minor in dance.

16 32. For the next five years, or until 1989, Dr. Easley worked as a
17 pharmaceutical salesman. During that time, the physicians he met through his work
18 encouraged him to go back to school to become a physician.

19 33. Although Dr. Easley found it hard to give up the good income he earned as
20 a pharmaceutical salesman, he returned to school and graduated from osteopathic
21 medical school, he testified in 1998. After a one-year residency at the University of
22 Kansas, he completed his residency in Arizona.

23 34. Dr. Easley began moonlighting as a physician at a facility in Sun City West,
24 doing treadmill testing and providing prescriptions for senior citizens to engage in
25 exercise programs. Because the facility "emptied out" in the summer, the owners
26 brought Dr. Easley into the facility on a part-time basis and, eventually, laid him off.

27
28 ⁵ These statutory subsections include among the definitions of "unprofessional conduct" that provides
29 cause to penalize a license to practice osteopathic medicine "[u]sing controlled substances or prescription-
30 only drugs unless they are provided by a medical practitioner . . . as part of a lawful course of treatment"
and "[v]iolating a formal order, probation or a stipulation issued by the board under this chapter.

⁶ This statutory subsection includes among the definitions of "unprofessional conduct" "[c]onduct in the
practice of medicine that evidences moral unfitness to practice medicine."

1 35. Dr. Easley testified that, about this time, he began having problems with the
2 Board. He was a "brand-new physician with a blemish on his record." After his
3 discharge from the 120-day inpatient program for alcohol abuse in Oregon, he began
4 performing part-time locum tenens work to get by, including at a clinic that included a
5 family practice and HIV practice.

6 36. After the physician at the clinic where Dr. Easley had been performing
7 locum tenens work died unexpectedly, he worked for the clinic as an independent
8 contractor for three years.

9 37. In 2004, Dr. Easley opened his own practice. He is board-certified in family
10 practice and also is certified by the American Academy of HIV Physicians, which
11 requires him to pass an examination every 2 years and to complete 15 hours/year in
12 continuing education, because the field changes so rapidly. Dr. Easley also has been
13 trained in treatment of diabetes and hepatitis.

14 38. Dr. Easley is also a national speaker on behalf of a pharmaceutical
15 manufacturer, based on his public speaking skills and credentials as a doctor and
16 former salesperson. He has been trained to speak on behalf of a product, not as a
17 commercial but based on the observed disease state. Among the products he has
18 spoken publicly about is Provigil.

19 39. Dr. Easley's mother is from Costa Rica, he was raised in a bilingual home,
20 and he speaks fluent Spanish. Dr. Easley has performed community work for Chicanos
21 por la Causa and in the Spanish-speaking community. He has learned medical
22 terminology in Spanish. Dr. Easley testified that, many times, Spanish-speaking
23 patients cannot get answers from their physicians in Spanish. Dr. Easley testified that
24 he does not criticize other doctors' care, but explains such care so that Spanish-
25 speaking patients can understand.

26 40. Dr. Easley also does community work for Body Positive, which involves
27 persons who are HIV positive. Part of his program as a recovering alcoholic is to give
28 back to the community.

29 41. Dr. Easley testified that, when he first disclosed to the Board that he had
30 been charged with felony drug possession, he was "naïve." He did not believe that he
was an alcoholic. After he went to a party and drank alcohol in 2000, a random

1 urinalysis was positive. The Board suspended his license and, after he completed the
2 three-month inpatient treatment program, placed him on probation again.

3 42. Dr. Easley testified that the positive test for alcohol in 2005 was triggered
4 because he felt "tired, lonely, and hungry." He was moving his office and experiencing
5 grief for the first time after his best friend died. He was called to be tested the next day
6 after he had taken a drink.

7 43. Dr. Easley testified that he was not allowed to continue practicing after the
8 second test that was positive for alcohol, but instead was sent to the Betty Ford Center.
9 The Board then required him to participate in intensive outpatient therapy, where he
10 met Melanie Wall, who provided treatment through her company ADAPT ("Alcohol Drug
11 Abuse Prevention & Treatment").

12 44. Dr. Easley testified that he is only allowed to speak on-label for
13 pharmaceutical products. But he is given a big notebook on each product, which
14 includes off-label uses and every study ever done. He was familiar with the off-label
15 use of Provigil to treat Attention Deficit Disorder ("ADD") or Attention Deficit
16 Hyperactivity Disorder ("ADHD").

17 45. Dr. Easley testified that he was finding it difficult to focus after he completed
18 the ADAPT program. This difficulty had been a recurrent problem. He just decided to
19 use samples of Provigil that he had obtained as a pharmaceutical salesperson. He did
20 not discuss the matter with his Alcoholic Anonymous ("AA") sponsor. He knew that the
21 terms of his probation required him not to take any prescription drugs, except as
22 prescribed by another physician. He nonetheless took the Provigil "impulsively to see if
23 it would work" because he did not have health insurance and was not seeing any
24 regular physician.

25 46. Dr. Easley testified that it is clear to him now that his use of the Provigil, in
26 violation of the terms of his probation, is a manifestation of the disease of alcoholism or
27 chemical dependency. He does not know why it was not clear to him when he first took
28 the drug. Dr. Easley testified that he has a new AA sponsor with whom he is working
29 closely, repeating from the first the twelve steps, to identify and learn more about the
30 "character defects" that led him to take the Provigil.

1 47. Dr. Easley testified that he has been evaluated by a psychiatrist, diagnosed
2 with ADD or ADHD, and prescribed Provigil. He must see the psychiatrist at least once
3 a month because there are no refills on the Provigil prescription.

4 48. Dr. Easley testified that he has never used prescription drugs that had not
5 been prescribed to him, except for the Provigil. He has significant pain issues as a
6 result of sciatica, degenerative disk disease, a torn ACL medial meniscus in his knee,
7 and a torn ligament in his ankle. He has never taken narcotics to treat this pain.

8 49. Dr. Easley testified that he believes the use of Provigil under his
9 psychiatrist's care will help prevent any further relapse into alcoholism. He is now so
10 much more focused and believes that he has derived a significant benefit from the
11 proper use of the drug.

12 50. Dr. Easley testified that he believes that he would also benefit from
13 participating in Dr. Sucher's group therapy for professionals. He has not begun this
14 treatment because Dr. Sucher requires a referral from the Board.

15 51. Dr. Easley testified that, as a result of his unauthorized use of Provigil, he
16 has learned a "hard lesson." The time since the positive test result has been very
17 difficult and tumultuous for him and his family. The test has had a tremendous financial
18 impact. But he believes he has benefited from what he has learned and has been
19 going through a "growing process." The worst negative impact is the possibility that he
20 will lose his license and practice, which would kill him.

21 52. Dr. Easley admitted on cross-examination that none of the insurers with
22 whom he has contracts have terminated their relationship as a result of this matter,
23 although Healthnet has contacted him. As a result of the probation he has been on
24 since 1999, he cannot obtain malpractice insurance through the state MICA plan and
25 had to obtain insurance from other markets, which is "exorbitant." He lost a couple of
26 insurers when he first went on probation. But he only wants to "keep what I have."

27 53. Dr. Easley testified that he believes that he is safe to practice. He does not
28 believe that his use of Provigil renders him morally unfit to practice osteopathic
29 medicine.
30

Dr. Lett

54. Dr. Lett is a licensed psychologist who specializes in psychological and neuropsychological assessment. He has a M.S. and Ph.D. in rehabilitation. Since 1989, he has been in private practice, specializing in early intervention and treatment of people who abuse substances and ensuring their safe functioning in the workplace. He receives referrals from many professional licensing organizations, including those for dentists, allopathic and osteopathic physicians, nurses, pharmacists, and attorneys. His practice focuses on addiction.

55. Dr. Easley had admitted into evidence Dr. Lett's July 31, 2007 summary of his treatment and current status, in relevant part as follows:

[Dr.] Easley began receiving psychotherapy with me in 2001. I saw him shortly after he completed a 120 day residential treatment program for alcohol dependency. He was active in the recommended treatment from the initial treatment plan thru October 2005. He acknowledged at this time that he lapsed to alcohol use over a weekend and consequently tested positive for alcohol on a random drug screen. My reassessment of Dr. Easley suggested that he experienced a lapse and not a full blown relapse to alcohol use. I recommended intensive outpatient chemical dependency (IOPCD) treatment and he began a program right away. In my opinion, this lapse was a positive therapeutic event in his recovery process from alcohol dependency.

Since this lapse, he completed the IOPCD and continues in aftercare with the IOPCD provider [Ms. Wall]. Additionally, he continues in psychotherapy with me and actively participates in [AA] with his sponsor. On 3-12-07, [Dr.] Easley shared with this writer that he tested positive for Provigil on a Board drug screen. He explained that he obtained the Provigil as a sample and was attempting to manage self-reported symptoms of [ADHD]. On 3-26-07, he shared that he received a psychiatric consultation with Dr. Sisley, psychiatrist and a prescription to continue the Provigil to manage ADHD. Dr. Easley acknowledges that he made a bad choice by taking the Provigil without an authorized prescription. In my professional opinion this behavior indicates a lapse in his chemical dependency recovery process. I recommended to [Dr.] Easley that he engage in a structured aftercare program that includes individual psychotherapy, weekly group counseling, random drug

1 screening and continued participation in his 12 step program
2 of AA.

3 It is important to note that [Dr.] Easley has lapsed twice
4 since his residential treatment episode for alcohol
5 dependency in December 2000. Chemical dependency is a
6 disease that can remit and re-emerge in lapse or relapse. In
7 my professional opinion, [Dr.] Easley has not experienced a
8 "full-blown" relapse and his lapses have resulted in
9 therapeutic gain.

10 [Dr.] Easley shares that there has been no practice
11 complaints against his license. Clinical observation
12 indicates that he exhibits high motivation to continue working
13 a strong rehabilitation program for recovery from substance
14 dependency. He has made measurable gains in several life
15 areas since his treatment with started in 2001. Based on my
16 clinical experience with [Dr.] Easley and his willingness to
17 adhere to treatment recommendations as outlined above, I
18 believe that he is very capable of functioning safely as a
19 physician.⁷

20 56. Dr. Lett testified that addiction is a brain disease that, in many cases, is
21 characterized by chronic relapses. Although we have come a long way since the early
22 1930s, when AA was founded, many people still see addiction as a moral defect. But it
23 is recognized as a disease, like high blood pressure or diabetes, which can be
24 managed but possibly never cured.

25 57. Dr. Lett testified that it is important to note the difference between a lapse,
26 which is a misstep, and a relapse, which is a return to a pre-cessation level of use or
27 pattern of behavior. A person who smokes a single cigarette two years after ending a
28 three-pack/day habit has suffered a lapse, not a relapse.

29 58. Dr. Lett testified that, after Dr. Easley was discharged from the 120-day
30 inpatient program in 2001, he initially met with Dr. Lett weekly. After a while, they met
bi-weekly, then quarterly. After the lapse in 2005, the duration and frequency of their
meetings increased.

59. Dr. Lett testified that Dr. Easley had shared his suspicion that he suffered
from ADHD before he testified positive for Provigil, but that he had not pursued the

⁷ Dr. Easley's Ex. A.

1 matter. His self-diagnosis and self-treatment of the ADHD is part of his disease of
2 alcoholism or chemical dependency, which can manifest in secrecy, impulsiveness, and
3 self-destructiveness. An alcoholic may act without getting confirmation or clarification
4 from a partner, sponsor, or therapist because he cannot be honest with himself or
5 another person. That kind of thinking precipitated Dr. Easley's use of Provigil.

6 60. Dr. Lett characterized Dr. Easley's unauthorized use of Provigil as a lapse.
7 It is not an issue of whether Provigil is necessary to treat his ADHD. But Dr. Easley was
8 "living in his own world"; he did not seek proper diagnosis and treatment of his ADHD.
9 The therapeutic gain that has resulted from Dr. Easley's lapse is his self-examination of
10 how he set himself up to make errors in judgment, so that cognitive strategies can be
11 formulated to prevent the same or similar behavior in the future. Addiction is not only a
12 person's biological relationship with a substance, but conditioned ways of thinking.

13 61. Dr. Lett testified that Dr. Easley performs better with more structure,
14 including aftercare, AA, meeting with his sponsor, and meeting with Dr. Lett. He needs
15 treatment over a longer period of time. Dr. Lett recommended that, in addition to the
16 terms of the 2006 probation, Dr. Easley be required to participate in Dr. Sucher's
17 program for professionals, which is structured and well-run.

18 62. Dr. Lett testified that, from a clinical perspective, he did not believe that Dr.
19 Easley is a threat to patients. Dr. Easley understands the seriousness of his situation
20 and is highly motivated to abide by the terms of his probation. Dr. Lett did not believe
21 that Dr. Easley's license should be suspended or revoked.

22 63. Dr. Lett testified that he believes that, if Dr. Easley is allowed to remain on
23 probation, there is a high probability that Dr. Easley can successfully complete
24 probation and practice without the necessity of a more structured program monitored by
25 the Board. An addict never gets to the point where he does not have to manage his
26 disease. Dr. Lett testified that it is interesting that Dr. Easley chose to drink in 2005 just
27 before he was scheduled to go before the Board and request an early termination of his
28 probation.

29 64. Dr. Lett testified that he does not believe that Dr. Easley is morally unfit to
30 practice osteopathic medicine. He does not believe that Dr. Easley ever made a
conscious decision to violate the terms of his probation by taking Provigil.

Ms. Wall

65. Ms. Wall is a licensed chemical dependency counselor who owns ADAPT. She has worked in the industry for 15 years.

66. Dr. Easley has been Ms. Wall's patient since January 2006, when she started counseling him in ADAPT's intensive outpatient program as a result of the 2006 consent agreement. On April 26, 2006, Dr. Easley transitioned to aftercare and graduated from the program in February 2007. She continues to counsel him one-on-one on an individual basis.

67. Ms. Wall wrote a letter in support of Dr. Easley to the Board, which was admitted into evidence, in relevant part as follows:

In March 2007, Dr. Easley reported he had tested positive for Provigil, a medication used to treat ADHD. He admitted that he did not have a prescription, but did have samples, and use[d] the medication post a conversation with a Psychiatrist who agreed, Provigil would be appropriate based on his symptoms. However, rather than making an appointment with a doctor to obtain a prescription, he chose to use samples of the medication and ultimately tested positive in a random UDS for an unauthorized medication.

Dr. Easley readily reported he had been impulsive and in "self-will" and had made a huge error in judgment. I do not classify this to be a relapse as the medication is not habit forming and is not considered to be 'mind/mood altering'. I do however, consider it to be lapse, specifically a lapse in judgment.

Dr. Easley has verbalized the realization that he needs to work a more vigilant program, especially in regards to communication with his sponsor. That he impulsively used the medication, rather than running his decision past his sponsor. He has taken steps to engage in a more open relationship with his sponsor, who has reported to me that Dr. Easley has increased his contact and appears motivated to work a stronger program. They meet weekly and talk at least every other day.

While Dr. Easley was in treatment with me, it was apparent that his peers were resistant to give him the feedback he needed as he was a "doctor" and therefore perceived to be above the other members of the group. Though I attempted

1 to remove that stigma, it remained none the less. I believe
2 Dr. Easley needs to be [in] an ongoing support/therapy
3 group that would be made up of his peers (physicians) who
4 would be able to confront his addictive traits, i.e. self-will,
5 false pride, self deception. It is not unusual for the traits of
6 the disease to arise, it is my hope that this therapy group
7 would help Dr. Easley to recognize his defects of character
8 and gain support in overcoming them. My recommendation
9 that Dr. Easley get involved in an ongoing physicians group
10 to insure he remains vigilant in his recovery and to prevent
11 such an error in judgment occurring in the future, has been
12 endorsed by both Dr. Sucher and Dr. Lett.

9 Dr. Easley is a wonderful physician and works with patients
10 most physicians shy away from. He is a certified HIV
11 specialist and has used his own experience and recovery to
12 treat the Chemically Dependent patient in his practice.⁸

13 68. Ms. Wall testified that the many of the members of the group that she
14 referred to in her letter were much younger than Dr. Easley and "fresh out of jail,"
15 except for an attorney. The other members of the group did not confront Dr. Easley
16 when he exhibited addictive behaviors and thought patterns. She believes that Dr.
17 Easley would benefit from aftercare that involved other physicians and professionals
18 who would not hesitate to confront him, such as Dr. Sucher's program.

19 69. Ms. Wall testified that being a physician and an alcoholic was hard and
20 characterized Dr. Easley's predicament as "self-will run riot." It is more difficult to break
21 the habit of self-will than it would have been for someone not in his professional
22 position. Physicians are known for their "God complex."

23 70. Ms. Wall pointed out that, at about the same time that Dr. Easley completed
24 the aftercare program, February 2007, he started self-prescribing and using the Provigil.
25 Alcoholics are known for self-sabotage. They must learn to be humble about their
26 successes, and attribute success to their recovery, not their innate abilities.

27 71. Ms. Wall testified that the majority of alcoholics in recovery do not fight the
28 desire to drink. Rather, they are "ego maniacs with inferiority complexes." The battles
29 over the character traits and thought processes lessen with vigilance.

30 ⁸ Dr. Easley's Ex. D.

1 72. Ms. Wall characterized Dr. Easley's use of Provigil as a lapse rather than a
2 relapse, which she characterized as the use of drugs to escape from reality. However,
3 the relapse process starts long before the alcoholic starts using drugs and a lapse such
4 as Dr. Easley committed is definitely part of the relapse process.

5 73. But Ms. Wall testified that Dr. Easley compromised his recovery but did not
6 end it. He followed all of her recommendations. He went to psychiatrists to confirm his
7 suspected ADHD and talks to his sponsor every other day. Because alcoholism is an
8 insidious disease, she has never condemned anyone for coming out of remission. The
9 Provigil incident humbled Dr. Easley and he understands the seriousness of the
10 situation.

11 74. Ms. Wall testified that Dr. Easley is motivated to comply with the terms of
12 probation. He has traveled a "longer road to sobriety than most people could endure."
13 He has learned from his lapses and will be more vigilant in the future. But Ms. Wall
14 testified that Dr. Easley is not in a "cycle of relapse." His use of Provigil may have been
15 a "cry for help."

16 75. Ms. Wall testified that Dr. Easley treats patients that no one else wants to
17 treat, including substance abusers and HIV positive patients. Nothing in Dr. Easley's
18 behavior indicates that he is not safe to practice. Rather, he has demonstrated
19 commitment to his practice, patients, and the ethics of his profession. Ms. Wall has
20 treated many of Dr. Easley's patients who consider him to be one of the best. He is not
21 morally unfit to practice osteopathic medicine.

22 Dr. Sucher

23 76. Dr. Sucher is an allopathic physician who practices addiction medicine. The
24 Board refers regulated physicians to Dr. Sucher and stipulated to his credentials at the
25 hearing.

26 77. Dr. Sucher wrote a letter dated August 7, 2007 on Dr. Easley's behalf,
27 which was admitted into evidence and provided in relevant part as follows:

28 I met with [Dr. Easley] yesterday to discuss his recovery
29 program, the incident of self prescribing and some
30 recommendations for ongoing treatment and monitoring. He
asked if I would consider allowing him to participate in our

1 Post Treatment Supervision monitoring program to provide
2 additional support to his recovery program.

3 We reviewed the incident where Dr. Easley self prescribed
4 modafinil. He accepts responsibility for inappropriate action
5 and feels very remorseful about it. He is now receiving this
6 medication appropriately through his psychiatrist, Dr. Sisely.
7 Otherwise his recovery program seems very stable. I do not
8 believe his non compliance represents relapse but rather
9 poor judgment on his part.

10 I would be more than willing to augment his recovery
11 through participation in Post Treatment Supervision with the
12 board's approval. This would include his maintaining full
13 compliance with his probationary order with the board. We
14 would add a relapse prevention group therapy component to
15 his monitoring and coordinate drug testing with the board.⁹

16 78. Dr. Sucher also provided his post-treatment supervision brochure with the
17 letter.¹⁰ He testified that treatment of addiction includes evaluation, diagnosis,
18 treatment, and monitoring. His firm also performs testing.

19 79. Dr. Sucher testified that addiction is a brain disease characterized by a
20 disease process. Addiction is in essence the compulsive continued use of a substance
21 despite negative consequences. The disease is also manifested by denial,
22 minimization, and continued use.

23 80. Dr. Sucher testified that professionals are especially motivated to remain in
24 recovery due to the negative consequence of the inability to practice their profession.
25 He has evaluated and treated more than 2,000 professionals in 15 years. Based on
26 good data, his five-year success rate for health professionals is 80% to 90%. The 90%
27 success rate is seen in professionals who have undergone inpatient programs plus
28 rigorous aftercare and monitoring. A 10-year study of dental professionals had a 79%
29 success rate.

30 81. Dr. Sucher testified that a lapse is a brief period of return to substance use,
which results in no major consequences to the recovery process. The individual is
brought back into the program and continues his recovery. But professional licensing

⁹ Dr. Easley's Ex. B.

¹⁰ See Dr. Easley's Ex. C.

boards consider lapses to be serious and lapses may result in suspension until the professional completes a more intensive program.

82. Dr. Sucher testified that he met Dr. Easley in November 2005. He evaluated and advised Dr. Easley, but did not provide a formal monitoring contract because Dr. Easley already had a consent agreement with the Board. Dr. Sucher was provided a copy of Dr. Easley's evaluation from the Betty Ford Center.

83. Dr. Sucher testified that he again saw Dr. Easley in the spring of 2007, after he had self-prescribed and taken Provigil. By the time Dr. Sucher saw Dr. Easley; he had been diagnosed as ADHD and had obtained a prescription for Provigil from Dr. Sisely.

84. Dr. Sucher described Dr. Easley's self-prescription as a "very serious lapse in judgment," which Dr. Easley recognized. Dr. Sucher testified it was not a relapse.

85. Dr. Sucher has not been asked for a treatment recommendation. But he testified that Dr. Easley should "absolutely maintain compliance" and should continue to work at an active recovery program. All of the terms of the Board's 2006 order remain appropriate. In addition, Dr. Lett had recommended a more structured aftercare program. Dr. Sucher agreed that more treatment would benefit Dr. Easley.

86. Dr. Sucher testified that Dr. Easley would be welcome to participate in his relapse prevention group, which is led by a psychiatrist or psychologist and meets weekly or biweekly. The group is comprised of professionals, who readily identify relapse behavior in other professionals. Dr. Sucher believes that Dr. Easley would benefit from participation in the group.

87. Dr. Sucher testified that lapse and relapse are very common among recovering addicts. But lapses and relapses can be very positive and can break through denial and minimization.

88. Dr. Sucher testified that there is no reason to think that Dr. Easley is not safe to practice. He did not see any therapeutic benefit to Dr. Easley or his patients if his license to practice medicine is revoked or suspended.

89. Dr. Sucher also recommended that Dr. Easley continue treatment by a psychiatrist and increased frequency of bodily fluid testing.

1 90. Dr. Sucher explained that Provigil (modafinil) is a mild stimulant, not an
2 amphetamine, that is prescribed to treat daytime sleep disorder, which is characterized
3 by daytime drowsiness. He is not aware of any real potential for abuse.

4 91. Dr. Sucher testified that Provigil commonly is used off-label to treat ADHD.
5 Provigil is a much safer alternative to Ritalin. Off-label means the use has not been
6 approved by the FDA. Off-label uses of drugs are common in psychiatry. Off-label use
7 does not mean the use falls outside the standard of care.

8 92. Dr. Sucher testified that the FDA approved Provigil for use in the United
9 States five years ago. After its approval, it almost immediately was used to treat ADHD
10 or ADD.

11 93. Dr. Sucher was asked if lapses in judgment were generally just personal or
12 whether lapses could involve professional judgment. Dr. Sucher testified that, usually,
13 a professional will do everything he can to maintain his practice to the end. The Council
14 on Alcoholism has done studies and found that an alcoholic will give up his family five
15 years before he gives up his career.

16 94. Dr. Sucher believes that Dr. Easley's long-term probability of success in his
17 recovery is high.

18 **Dr. Sisely**

19 95. Psychiatrist Suzanne A. Sisely, MD evaluated Dr. Easley on March 16,
20 2007. She diagnosed him with ADD and noted a history of polysubstance abuse, in
21 long-term remission.

22 96. Dr. Sisely prescribed Provigil to Dr. Easley and made a plan of treatment, in
23 relevant part as follows:

24 Since pt already taking Provigil intermittently via his private
25 office samples, and reports feeling he needs this medication
26 to function/focus on daily tasks of medical practice, I have
27 advised pt to continue using this medicine SPARINGLY to
28 avoid tolerance/addiction potential (in light of past hx of
29 substance abuse). But I feel the benefits of using this
30 medicine (improved performance at work which benefits
patient safety) may outweigh the risks of addiction (addiction
potential with this medication is VERY LOW, and can be
detected immediately if pt starts ramping-up dose and
needing early RF's). Pt given rx for Provigil 200mg qam

1 today (#30 which should ideally last pt 3 months), but urged
2 to dose not more than 3-4 times per week to avoid
3 tolerance, and not more than 1/2-1 per AM. Pt now agrees to
4 use this medicine on days when he knows he has a lot to do
5 and focus is imperative. But pt reluctant to continue this
6 med due to UDS detection, and fearful of raising a "red flag"
7 with Medical Board again. However, pt advised to consider
8 continuing intermittent use in order to preserve daily
9 functioning and ensure continued clean/sober. I am
10 concerned that if pt halts this medicine completely, he may
11 be at HIGH risk for relapse on previous street drugs
12 (cocaine, etc.) to keep up an appropriate level of functioning.
13 Pt advised to continue NA/AA at least 3 meetings per week
14 and adherence to other mandated CD rehab guidelines
15 prescribed by AZ Medical Board. RTC 1 month.

16 [4/20/2007 addenda:] Pt saw Dr. Lett who supports pt
17 pursuing an Adult ADD evaluation and treatment plan. Pt
18 admits that he "screwed-up" by not notifying the Board that
19 he tried a few Provigil samples prior to getting the rx for
20 Provigil from me. However, I do NOT believe this episode
21 represents a relapse—Provigil does not upregulate the
22 Nucleus Accumbens, and thus does not promote addiction
23 nor tolerance (except in rare cases of pts with extensive
24 polysubstance abuse). Pt admits he is having worsening
25 trouble focusing on medical tasks, esp at the end of the day
26 trying to review charts and deal with numerous details of his
27 private practice. Pt reports he feels very unproductive. Pt
28 encouraged to try to restart Provigil—even low-dose of
29 100mg qam intermittently may help him improve his work
30 performance. Pt is extremely financially limited, and has
significant debt to lawyers, etc assoc with his Board
monitoring. Pt advised to cont Provigil pm and RTC 1 month
for reevaluation of ADD sx's.¹¹

Dr. Patino

97. Dr. Patino has been a psychiatrist since 1989. He evaluated Dr. Easley on
August 16, 2007. Dr. Patino gave Dr. Easley the Axis I diagnoses of ADHD,
predominantly inattentive, alcohol dependence in remission, cocaine dependence in
remission, and adjustment disorder with mixed emotional features.

¹¹ Dr. Easley's Ex. G.

1 98. Dr. Patino testified that ADHD has two sets of symptoms: inattentive, which
2 means difficulty paying attention, and hyper focusing, which means a person is able to
3 focus on one thing, but neglects everything else. ADHD children also are hyperactive,
4 which means purposeless behaviors. ADHD adults are less hyperactive but may
5 become more impulsive. Stress may increase ADHD symptoms. Dr. Easley manifests
6 a consistent pattern of inattention plus hyper or impulsive behaviors, which he reported
7 has occurred since he was a child. Dr. Easley is very likely to benefit from treatment of
8 his ADHD with Provigil at a dose of 200 to 400 mg per day.

9 99. Dr. Patino testified that the FDA is somewhat concerned about the side
10 effects of Provigil in treating ADHD, but not its efficacy.

11 100. Dr. Patino testified that treatment of Dr. Easley's ADHD should decrease
12 his impulsive behavior and help him maintain sobriety. Substantial research and
13 anecdotal evidence supports that treatment of ADHD enhances the success of
14 treatment of substance abuse.¹²

15 101. Dr. Patino testified that comprehensive treatment of Dr. Easley's disorders
16 should include pharmacological intervention, cognitive behavioral therapy to facilitate
17 the development of more positive adaptive coping skills, and continued substance
18 abuse treatment.

19 102. Dr. Patino testified that Dr. Lett is providing appropriate cognitive therapy.
20 Dr. Patino also recommended that Dr. Easley continue his substance abuse program.

21 103. Dr. Patino testified that Dr. Easley's intensity is quite severe. The strong
22 effort that he has made to maintain his sobriety and his success for more than five
23 years demonstrate his high degree of motivation. But because Dr. Easley lacked the
24 necessary cognitive skills, he experienced a lapse, evidenced by the self-prescription of
25 Provigil. Dr. Patino testified that Dr. Easley would benefit from the aftercare program
26 provided by Dr. Sucher.

27 104. Dr. Patino testified that he believes that Dr. Easley can safely engage in
28 the practice of medicine. His violation of his probation absolutely does not render him
29 morally unfit to practice medicine.

30 ¹² Dr. Patino's report of these studies was admitted into evidence as Dr. Easley's Ex. E.

Mr. Sapia

105. Mr. Sapia is the clinical supervisor for the program for HIV positive individuals and their families through Chicanos por la Causa. Mr. Sapia has also worked in substance abuse treatment and in general mental health.

106. Mr. Sapia met Dr. Easley in 2001, when he indicated an interest in providing medical services for Spanish-speaking clients. Whenever Mr. Sapia called Dr. Easley, he always came for Latino Health Awareness Days and to the HIV Latino support group. Dr. Easley talks about medications and side effects and performs simple diagnostics, such as taking blood pressure. Mr. Tapia's clients are pleased with Dr. Easley's services.

107. Mr. Tapia testified that Dr. Easley has treated three of his clients who are HIV positive. They are pleased with his services.

108. Mr. Tapia testified that few other doctors speak fluent Spanish. Ninety percent of his clients are Spanish speakers. Only one other doctor volunteers to help him, but that doctor does not speak Spanish. Because most doctors do not speak Spanish, his clients do not share some things. Dr. Easley is a valuable asset to his program and to the Hispanic community.

Mr. Maldonado

109. Mr. Maldonado works for the State of Arizona in the Department of Health Services Division of Behavioral Health in the Office of Human Rights. He is an advocate for the rights of mentally ill persons.

110. Mr. Maldonado did not meet Dr. Easley through his work. Instead, he met Dr. Easley in a recovery group. He also knows some people that Dr. Easley serves.

111. Mr. Maldonado testified that he is familiar with Dr. Easley's work in the HIV community, to whom he provides medical care and counseling for substance abuse and mental health issues. Many people who are HIV positive also have substance abuse and mental health issues, which need to be addressed. Unfortunately, many practitioners see the three issues separately. Dr. Easley provides holistic care.

112. Mr. Maldonado testified that, if Dr. Easley can no longer provide this service, the HIV community would suffer.

CONCLUSIONS OF LAW

1. The Board is empowered to regulate the licensing and practice of osteopathic medicine in the State of Arizona and this matter lies within its jurisdiction.¹³

2. The Board bears the burden of proof and must establish cause to sanction Dr. Easley's license by a preponderance of the evidence.¹⁴ Mr. Easley bears the burden to establish factors in mitigation of any penalty by the same evidentiary standard.¹⁵ "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."¹⁶ A preponderance of the evidence is "[t]he greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other."¹⁷

3. Dr. Easley admitted that he committed unprofessional conduct as defined by A.R.S. § 32-1854(22) and (25) by self-prescribing Provigil, in violation of his probation. Therefore, cause exists for the Board to impose the penalties set forth in A.R.S. § 32-1855(l).¹⁸

4. With respect to the appropriate penalty, the Board's primary responsibility is to protect the public. In the decade since Dr. Easley has been licensed, he has committed four serious incidents of unprofessional conduct as a result of his addictions. His disease has persistently actively manifested in repeated overt acts of unprofessional conduct.

¹³ See A.R.S. § 32-1800 *et seq.*

¹⁴ See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

¹⁵ See A.A.C. R2-19-119.

¹⁶ Morris K. Udall, ARIZONA LAW OF EVIDENCE § 5 (1960).

¹⁷ BLACK'S LAW DICTIONARY at page 1220 (8th ed. 1999).

¹⁸ These penalties include "censure, probation, suspension of license, revocation of license, an order to return patient fees, imposition of hearing costs, imposition of a civil penalty not to exceed five hundred dollars for each violation for such period of time, or permanently, and under conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances." In addition, "[t]he board may charge the costs of an investigative or administrative hearing to the licensee if pursuant to that hearing the board determines that the licensee violated this chapter or board rules."

1 5. Yet Dr. Easley has maintained his recovery, with only one incident involving
2 alcohol in the past seven years. If he had obtained a diagnosis of ADHD or ADD and a
3 prescription for Provigil from a properly licensed practitioner before taking it, no
4 additional incident of unprofessional conduct would have occurred and the Board would
5 not have opened its investigation into this matter. Drs. Patino and Sisely agreed that
6 appropriate treatment of Dr. Easley's ADHD will support his continued recovery from
7 and the sustained remission of his substance dependence.

8 **RECOMMENDED ORDER**

9 **IT IS HEREBY ORDERED** that License No. 3212 shall be **SUSPENDED** for a
10 period of **FIVE YEARS**. The Respondent may apply to have the suspension lifted no
11 sooner than 2 years from the effective date of this Order. Further Respondent is placed
12 on **PROBATION** for a period **FIVE YEARS** with the following terms:

13 1. Respondent shall enter into a structured aftercare program that is specifically
14 designed to meet the needs of professionals, such as that offered by Dr. Sucher, and
15 that is approved by the Board. Respondent shall follow the recommendations for
16 treatment and shall notify the Board of such recommendations.

17 a. Respondent will develop a plan for aftercare treatment and monitoring which
18 shall include, but may not be limited to, individual and/or group counseling sessions,
19 random body fluid testing, agreement for release of treatment records and reports to
20 the Board, prohibition of the use of alcohol and controlled substances unless the latter
21 is prescribed or coordinated by his treatment physician, and regular meeting with the
22 Board, and submit this plan to the Board for its approval.

23 b. The program in 1a shall be pre-approved by the Board's executive director
24 and shall be submitted for approval within twenty days of the effective date of the
25 Board's order.

26 2. Respondent will continue his treatment for his diagnosed ADHD through Dr.
27 Patino or another Board-approved psychiatrist.

28 3. Respondent will continue counseling and treatment by Dr. Lett and Ms. Wall,
29 as previously required by the Board's orders in Case Nos. 2812 and 3624.
30

1 4. Respondent will sign a release authorizing personnel at any facility from
2 which he receives treatment or counseling to inform the Board of his progress as to his
3 in-patient or out-patient evaluation(s) and any in-patient or out-patient treatment
4 program(s) and will provide the Board with a copy of any and all records pertinent to his
5 diagnosis and treatment during his probationary period.

6 5. Respondent shall comply with the recommendations of Drs. Sucher, Lett, and
7 Patino and Ms. Wall, or any other Board-approved practitioners who are retained to
8 treat his substance dependency or ADHD, for the frequency of therapy treatment
9 sessions. Respondent shall inform the Board by letter (mailed within ten days of the
10 date of the Board's Order) of the therapist or practitioner's name; and Respondent shall
11 undertake and fully cooperate with a program of treatment established by the therapist
12 or practitioner. In the event Respondent changes therapists or practitioners, he shall
13 give the Board written notice within ten days of said action. Respondent shall not
14 discontinue or reduce the frequency of therapy or monitoring until he has submitted a
15 written request to the Board and obtained Board approval.

16 6. Respondent's therapists and treating practitioners shall receive a copy of this
17 Order and Board staff shall cooperate with and disclose all relevant information in the
18 Board's files concerning Respondent. The treating therapist or practitioner shall be
19 directed by Respondent to send to the Board a detailed written progress report every
20 month for the remainder of the probation; and Respondent shall waive any
21 confidentiality concerning his therapy or treatment so that the Board may receive full
22 disclosure of information. The expense of the aforementioned therapy and the reports
23 to the Board by Respondent's therapists or treating practitioners shall be the sole
24 responsibility of Respondent.

25 7. Respondent shall provide a copy of the Board's final order and any
26 subsequent orders to all facilities where Respondent is currently (or subsequently)
27 employed as a physician and/or has (or subsequently receives) privileges to engage in
28 the practice of medicine. Respondent shall provide a copy of the Board's final order to
29 all treating physicians, dentists and/or health care professionals. Respondent shall
30 continue to make the aforementioned disclosure and to provide copies of the Board's
 final order until the expiration of the order.

1 8. Respondent may have his license to practice as an osteopathic physician
2 restricted, suspended or revoked by the Board in the future if:

3 a. The Board finds that Respondent does not have the requisite mental,
4 physical and emotional fitness to safely continue the practice of medicine, or

5 b. There are new ground for finding unprofessional conduct concerning
6 Respondent; or

7 c. Respondent fails to comply fully with the terms and conditions of this Order.

8 9. Respondent shall abstain completely from the consumption of alcoholic
9 beverages or any substance with alcohol (i.e., cough syrups); and Respondent shall not
10 consume illicit drugs or take any controlled substances (i.e., prescription only drugs)
11 unless his treating physician prescribes such medication for him with the awareness
12 that Respondent has a substance abuse disorder. Respondent shall maintain a
13 monthly log (for the duration of probation) of all prescription only drugs taken by him
14 and such log shall include the following information:

15 a. The name of the medication;

16 b. The name of the prescribing physician; and

17 c. The reason for the medication.

18 At the first of each month, Respondent shall report by letter to the Board whether or not
19 he is taking any prescription only medication and, if so, provide a copy of his log
20 reflecting the above information.

21 10. Respondent shall also, as part of his probation:

22 a. Submit to and cooperate in any independent medical or psychological
23 evaluation that is ordered by the Board for Respondent and conducted by the Board's
24 designated physician and/or psychologist which shall be paid for by Respondent; and

25 b. Appear before the Board, upon receipt of a request by written or telephonic
26 notification from the Board's executive director which shall be given at least five days
27 prior to the Board meeting; and

28 c. Submit to random biological fluid testing and promptly provide (i.e., within
29 sixty minutes of notification) required biological fluids for testing and said testing shall
30 be done at the Respondent's expense.

1 11. Respondent shall participate in a minimum of three (3) self-help meetings
2 per week through such organizations as AA, NA, CA, and doctors' Caduceus group.
3 Respondent shall keep a log of all meetings attended and have the log signed by the
4 chairperson of the meeting. Respondent will provide the Board with a copy of the
5 signed log the first of every month.

6 12. In the event Respondent moves and ceases to practice medicine in
7 Arizona, he shall give written notice to the Board of his new residence address within
8 twenty days of moving and the terms and duration of his probation may be stayed by
9 the Board until Respondent returns to practice medicine in Arizona.

10 13. Respondent shall reimburse the Board for all expenses associated with the
11 continued monitoring of this matter.

12 14. Respondent shall reimburse the Board for all expenses associated with its
13 investigation and the hearing in this matter.

14 15. Respondent shall continue to meet all licensing requirements such as
15 continuing medical education and renewal requirements including applicable fees
16 pursuant to A.R.S. § 32-1825.

17 16. The Board's executive director shall send correspondence to the
18 appropriate state and/or federal law enforcement agency disclosing information I the
19 Board's possession which may establish criminal misconduct by Respondent, i.e., illicit
20 use of controlled substances.

21 17. Respondent's failure to comply with the requirements of the Board's final
22 order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26) and
23 may be considered as grounds for further disciplinary action (e.g., suspension or
24 revocation of license) in the event that Respondent fails to comply with any of the
25 requirements of the Board's final order.

26 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

27 Respondent is hereby notified that he has the right to petition for a
28 rehearing or review by filing a petition with the Board's Executive Director within thirty
29 (30) days after service of this Order. A.R.S. § 41-1092.09. The petition must set forth
30 legally sufficient reasons for granting a rehearing. A.C.C. R4-22-106. Service of this
order is effective five (5) days after date of mailing. If a motion for rehearing is not filed,

1 the Board's Order becomes effective thirty-five (35) days after it is mailed to
2 Respondent.

3 Respondent is further notified that the filing of a motion for rehearing is
4 required to preserve any rights of appeal to the Superior Court.



DATED THIS 15TH DAY OF NOVEMBER, 2007

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Jack Confer, Executive Director

Original Findings of Fact, Conclusions
of Law and Order filed this 15th day of
November, 2007 with the:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale, AZ 85258-5539

Copy of the foregoing hand-delivered
this 15th day of November, 2007 to the:

Office of Administrative Hearings
1400 West Washington,
Phoenix, AZ 85007

Copies of the foregoing sent be certified
mail, return receipt requested, this 15th
day of November, 2007 to the:

Charles E. Buri, Esquire
Friedl, Richter & Buri, PA
6909 East Greenway Parkway, Suite 200
Scottsdale, AZ 85254-2149

S. Foster Easley, III
5501 North 19th Avenue Ste. 218
Phoenix, AZ 85015

1 Copy of the foregoing sent by regular
2 mail the 15th day of November, 2007
3 to the:

4 Blair Driggs, Assistant Attorney General
5 Office of the Attorney General
6 1275 West Washington
7 Phoenix, AZ 85007


